

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 2002P10529WO	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/DE2003/002775	International filing date (day/month/year) 20 August 2003 (20.08.2003)	Priority date (day/month/year) 10 September 2002 (10.09.2002)
International Patent Classification (IPC) or national classification and IPC H04L 29/06		
Applicant SIEMENS AKTIENGESELLSCHAFT		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 2 sheets.

3. This report contains indications relating to the following items:

I ☒ Basis of the report

II ☐ Priority

III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

IV ☐ Lack of unity of invention

V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

VI ☐ Certain documents cited

VII ☐ Certain defects in the international application

VIII ☐ Certain observations on the international application

Date of submission of the demand 20 February 2004 (20.02.2004)	Date of completion of this report 16 September 2004 (16.09.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/DE2003/002775

## I. Basis of the report

### 1. With regard to the elements of the international application:\*

- ☐ the international application as originally filed
- ☒ the description:  
 pages 1-17, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☒ the claims:  
 pages 2-8, 10-21, as originally filed  
 pages \_\_\_\_\_, as amended (together with any statement under Article 19  
 pages \_\_\_\_\_, filed with the demand  
 pages 1, 9, 22, 23, filed with the letter of 27 July 2004 (27.07.2004)
- ☒ the drawings:  
 pages 1/1, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

### 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

- These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:
- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

### 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

### 4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

### 5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/DE 03/02775

## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

## 1. Statement

Novelty (N)	Claims	1-21, 23	YES
	Claims	22	NO
Inventive step (IS)	Claims	1-21, 23	YES
	Claims	22	NO
Industrial applicability (IA)	Claims	1-23	YES
	Claims		NO

## 2. Citations and explanations

Reference is made to the following documents:

D1: EP-A-0 935 373 (AT & T CORP) 11 August 1999  
(1999-08-11)

D2: US-B-6 378 069 (THIBOUTOT BERNARD ET AL)  
23 April 2002 (2002-04-23)

## 1 INDEPENDENT CLAIM 22

The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claim 22 **lacks novelty** (PCT Article 33(2)).

Document D1 discloses (the references between parentheses refer to that document):

a computer which is designed and configured such that it can be used as computer in a data communications system according to one of claims 1 to 21,  
which is designed and configured such that it determines which transmission medium should be used for exchanging the data that is used for updating or

for controlling the updating process (column 9, lines 12 to 14)  
and subsequently establishes a link to an additional server computer via the transmission medium to be used (column 9, lines 19 to 23).

Since all the features of claim 22 are known in combination from document D1, the subject matter of claim 22 lacks novelty.

2 INDEPENDENT CLAIMS 1 AND 23

The subject matter of claim 1 is **novel and inventive** (PCT Article 33(2) and (3)).

Document D2 is considered the prior art closest to the subject matter of claim 1 and discloses:

data communications system comprising a plurality of computers and an administrative computer, wherein: before software stored on one of the computers or in a memory device associated therewith is updated, data is exchanged between that computer and the administrative computer, said data indicating which transmission medium should be used for exchanging the data that is used for updating or for controlling the updating process.

The subject matter of claim 1 differs from the subject matter known from D2 in that

- (1) the data communications system comprises "an additional server computer" and
- (2) a link is subsequently established between the particular computer and the additional server

computer via the transmission medium to be used".

The subject matter of claim 1 is thus novel (PCT Article 33(2)).

The present invention can therefore be considered to address the problem of the communication path between a computer and an administrative computer not satisfying the determined frame conditions for updating software data.

The above problem is solved in that, following determination of a transmission medium by a computer and an administrative computer, a link is established via that medium between the computer to be updated and a third server computer.

None of the prior art documents, or a combination thereof, contains anything that would lead a person skilled in the art to the solution as per claim 1. Consequently, the solution to this problem proposed in claim 1 of the present application involves an inventive step (PCT Article 33(3)).

The subject matter of claim 1 thus meets the requirements for novelty, inventive step and industrial applicability (PCT Article 33(1) to (4)).

2.1 Claim 23 repeats the subject matter of claim 1 in the form of a method and is therefore likewise novel and inventive.

3 Claims 2 to 21 are dependent on claim 1 and therefore likewise meet the PCT requirements for novelty and inventive step.

## Claims

1. Data communication system (1) having a plurality of computers (5, 15a, 25), an administrative computer (31), and an additional  
5 server computer (4)

characterized in that  
prior to the updating of software stored on one of the computers (5, 15a, 25) or, as the case may be, on a storage device (8, 18, 28) assigned thereto, data indicating which transmission medium  
10 is to be used for exchanging data used for updating or, as the case may be, for controlling the updating process is exchanged between the respective computer (5, 15a, 25) and the administrative computer (31), and  
in that a connection is subsequently set up between the  
15 respective computer (5, 15a, 25) and the additional server computer (4) over the transmission medium that is to be used.

9. Data communication system (1) according to one of the preceding Claims  
20 characterized in that  
at least one file required for updating the data has been stored on the additional server computer (4) or, as the case may be, on a storage device (34) assigned thereto.

25 22. Computer (5, 15a, 25) which is embodied and set up in such a way that it can be used as a computer (5, 15a, 25) in a data communication system (1) according to one of Claims 1 to 21, and which is embodied and set up in such a way  
that it ascertains which transmission medium is to be used for  
30 exchanging the data used for updating or, as the case may be, for controlling the updating process, and  
subsequently sets up a connection to an additional server computer (4) over the transmission medium that is to be used.

35 23. Method for updating software stored on a computer (5, 15a, 25) of a data communication system (1) or, as the case may be, on a storage device (8, 18, 28) assigned thereto, with the data

ART 34 AMEND

communication system (1) additionally having an administrative computer (31) and a server computer (4)

characterized in that

prior to the updating of the software stored on the computer (5,

5 15a, 25) or, as the case may be, on the storage device (8, 18, 28) assigned thereto, data indicating which transmission medium is to be used for exchanging data used for updating or, as the case may be, for controlling the updating process is exchanged between the computer (5, 15a, 25) and the administrative computer

10 (31), and

in that a connection is subsequently set up between the respective computer (5, 15a, 25) and the additional server computer (4) over the transmission medium that is to be used.